IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 14.11.2007

C O R A M

THE HONOURABLE Mr.JUSTICE P.JYOTHIMANI

W.P.No.21714 of 2007 and M.P.No.1 of 2007

Gobi Rural Arts and Cultural
Education Trust (GRACE),
Ayyan Thottam, Muthukalimadai,
Vellalapalayam, Gobichettipalayam Taluk,
Erode District,
Rep.by its Managing Director,
Mr.K.S.Kaliappan. .. Petitioner

-Vs.-

1. The Sub Collector,
Gobichettipalayam, Erode District.

2. The Inspector of Police,
Gobichettipalayam, Erode District. .. Respondents

PRAYER: Petition under Article 226 of the Constitution of India praying for the issuance of a Writ of Mandamus forbearing the respondents from interfering the petitioner lawfully running the Children Home, the Orphanage at Ayyan Thottam, Muthukalimadai, Vellalapalayam, Gobichettipalayam Taluk, Erode District.

For Petitioner : Mr.R.T.Doraisamy.
For Respondents : Mr.N.Senthil Kumar,
Government Advocate

O R D E R

This writ petition is filed for a direction forbearing the respondents from interfering with the petitioner lawful running of the Children Home, the Orphanage at Ayyan Thottam, Muthukalimadai, Vellalapalayam, Gobichettipalayam Taluk, Erode District.

2. The petitioner is stated to be the Founder and Managing Director of the trust called Gobi Rural Arts and Cultural Education Trust and he is also the Manager of the Orphanage called Children Home. According to him, the trust was created and registered on 23.03.1998 with an object of developing arts and cultural education in rural areas and to run homes for children. It was to fulfil the said objects of the trust, he started the Orphanage Home for children and he has also obtained certificate of recognition from the Chairman, Board of Control on 16.10.2003 to run the orphanage. There are 30 school going children both male and female and

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they are provided food, clothing, sanitation and lodging etc., The orphanage is run with service motive and the trust is also submitting its accounts to the Income Tax Department.

3. According to the petitioner in the beginning of 2007, at the instigation of some persons enemically disposed of against him, the police have started interfering with the functioning of the orphanage home. On the basis of false information, the police are threatening to cancel the certificate of recognition. In view of no other alternative remedy available to the petitioner, he has filed the present writ petition for a direction as stated above.

4. The respondents have filed counter affidavit. The respondents while admitting that the petitioner has been carrying on the orphanage in the above said place, it is the case of the first respondent that the first respondent along with the District Social Welfare Officer, Erode conducted joint inspection of the orphanage on 14.03.2007. It was a routine inspection and they found many discrepancies in the records as well as in respect of maintenance of the home. The condition and the manner in which the orphanage is run is highly prejudicial to the moral and physical well being of the inmates. It is also stated that at the time of inspection, as per the attendance register, it was found that there were 42 children staying in the home. The surroundings of the home were highly unhygienic and hazardous to the health of the children. The petitioner has not been maintaining the registers as required under law. The condition prescribed for running an orphanage in G.O.Ms.No.85, Social Welfare and Noon Meal Programme Department dated 31.05.2004, were not kept up. It is also the case of the respondents that when it was ascertained that the Managing Director of the Trust and Orphanage Home viz., the petitioner was involved in unlawful activities and was detained in his house for his involvement in gambling and a case in Gobichettipalayam Police Station in Cr.No.627/95 u/s 8 & 9 of the Tamil Nadu Gambling Act was registered and he was convicted by the Judicial Magistrate Court, Gobichettipalayam and he was again arrested for his involvement in a prostitution case in Gobichettipalayam Police Station in Cr.No.973 to 975/95 under Suppression of immoral Traffic (Prevention) Act 1986 as amended by Act 44/86 and he has paid the fine. Under such circumstances, the authorities have decided not to permit the petitioner to run the orphanage.

5. It is further stated in the counter affidavit that a detailed report was sent to the District Collector, Erode and the District Collector, Erode has suspended the recognition given to the institution under Orphanage and other Charitable Homes (Supervision and Control) Act, 1960, by his order dated 04.05.2007. Therefore, according to the respondents as on date the Collector has cancelled the permit given to run the Orphanage itself. Further it is stated in the counter affidavit that the children who stayed in the orphanage were withdrawn on 08.05.2007 and were taken to the nearby Hostel named Raman Sarojini Devi Hostel at Gobi Town and 20 boys and 10 girls were rescued on 08.05.2007 in the presence of District Social Welfare Officer, Erode and Probation Officer, Erode and all the children were medically examined at Gobichettipalayam Government Hospital by a team of doctors. Therefore, according to the respondents, the petitioner has no right to run the orphanage as the facts was

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ascertained based on the enquiry conducted by the District Social Welfare Officer along with the first respondent.

6. In view of the above said stand taken by the respondents in the counter affidavit, I am of the considered view that the petitioner cannot be granted the relief as prayed for in this writ petitioner. When the petitioner claims to run a charitable institution especially running an orphanage home consisting of male and female children of tender age and when the petitioner is arrested for his illegal and immoral activities inside the home, the morality of the person is in dispute and certainly the lives and future of the children are in danger in the hands of the petitioner. Therefore, it cannot be stated as if the respondents have acted beyond their jurisdiction as stated above. The respondents have acted in accordance with the provisions of the Orphanage and other Charitable Homes (Supervision and Control) Act, 1960 and the District Collector, Erode has cancelled the permit granted to the petitioner. Therefore there is absolutely no merit in this writ petition and in view of the same the writ petition stands dismissed. Consequently, the connected M.P. is closed. No costs.

Sd/
Asst.Registrar

/true copy/

Sub Asst.Registrar

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To

1. The Sub Collector,
   Gobichettipalayam, Erode District.

2. The Inspector of Police,
   Gobichettipalayam, Erode District.

1 cc To Mr.R.T.Doraisamy, Advocate, SR.67360.
1 cc To The Government Pleader, SR.67700.

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RVL 22.11.2007

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